

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CINDY KING FEINSTEIN,  
Plaintiff,  
vs.  
SERVICE SOLUTIONS GROUP  
LLC, et al.,  
Defendants.

CASE NO. 08-CV-1174 W (WMC)  
**ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS (Doc. No. 5)**

**I. BACKGROUND**

On November 20, 2007 Plaintiff Cindy King Feinstein ("Feinstein") filed a form complaint for breach of contract in San Diego Superior Court. (Doc. No. 1; *Justin Morello Decl.* ¶ 3.) Under Section 8, the "causes of action" section, Feinstein marked "Other" and appears to list a variety of employment law and discrimination causes of action. (*Justin Morello Decl.* Ex. 1 at 4.) Feinstein did not attach a separate statement of factual allegations supporting those claims as instructed to on the form. That is, nowhere does Feinstein allege any dates, times, people, places, actions, or things which could support claims for discrimination, wrongful termination, harassment, or anything else.

On June 2, 2008 Feinstein finally served Defendant Service Solutions Group, LLC ("Service Solutions") with a summons. (*Justin Morello Decl.* ¶ 9; Ex. 1.) On July

1 2, 2008 Service Solutions removed Feinstein's action to this Court. (Doc. No. 1.) On  
2 July 10, 2008 Service Solutions moved to dismiss Feinstein's Complaint for failure to  
3 comply with Federal Rules of Civil Procedure 8(a) and 12(b)(6). (Doc. No. 5.) To  
4 date, Feinstein has not opposed Service Solution's motion and on August 5, 2008  
5 Service Solutions filed a notice of non-opposition. (Doc. No. 6.) The Court takes the  
6 matter under submission and without oral argument. See S.D. Cal. Civ. R. 7.1(d)(1).  
7 For the following reasons, the Court **GRANTS** Service Solution's motion to dismiss  
8 and **DISMISSES WITHOUT PREJUDICE** Feinstein's Complaint as to all named  
9 defendants.

## 10 11 **II. LEGAL STANDARDS & ANALYSIS**

12 Rule 8 requires that complaint provide "a short and plain statement showing that  
13 the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Moreover, each claim  
14 presented must be "simple, concise and direct." Fed. R. Civ. P. 8(e)(2). These  
15 guidelines ensure that a complaint gives fair notice to defendants and states the  
16 elements of the claim plainly and succinctly. See Jones v. Community Redevelopment  
17 Agency of the City of Los Angeles, 733 F.2d 646 (9th Cir. 1984). Where a complaint  
18 merely contains conclusory allegations unsupported by facts, it fails to comply with Rule  
19 8. See Sherman v. Yakahi, 549 F.2d 1287, 1290 (9th Cir. 1977).

20 A district court may dismiss a complaint pursuant to Rule 12(b)(6) when it is  
21 clear that the plaintiff has not stated a claim upon which relief may be granted. See  
22 Omar v. Sea-Land Service, Inc., 813 F.2d 986, 991 (9th Cir. 1987). A motion to  
23 dismiss is proper when there is an absence of sufficient facts alleged under a cognizable  
24 legal theory. Balistreri v. Pacifica Police Dept., 901 F.2d 696, 699 (9th Cir. 1988).

25 Here, Feinstein's complaint is completely absent of any facts or allegations  
26 putting Service Solutions—or any other named defendant—on notice of any facts or  
27 circumstances that could possibly undergird Feinstein's employment and discrimination  
28 claims. Simply, there is nothing for Service Solutions to admit or deny in an Answer.

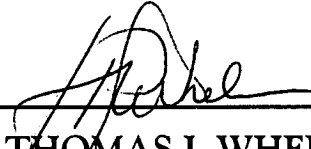
1 Feinstein does not contest this. Because Feinstein fails to allege *any* facts on which  
2 relief could be granted, the Court **GRANTS** Service Solutions' motion to dismiss and  
3 **DISMISSES WITHOUT PREJUDICE** Feinstein's Complaint as to all named  
4 defendants.

5  
6 **III. CONCLUSION**

7 For the above reasons, the Court **GRANTS** Defendant Service Solutions Group,  
8 LLC's motion to dismiss and **DISMISSES WITHOUT PREJUDICE** Plaintiff  
9 Feinstein's Complaint. (Doc. No. 5.) Shall Plaintiff wish to amend her complaint, she  
10 may do so by September 29, 2008.

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12 **IT IS SO ORDERED.**

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14 **Dated: August 13, 2008**

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17 **Hon. THOMAS J. WHELAN**  
18 United States District Court  
19 Southern District of California  
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